

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DRB CAPITAL, LLC,	§	
	§	
Plaintiff,	§	
v.	§	CIVIL ACTION NO. 4:22-CV-00987-CAN
	§	
TYLER R. WADE,	§	
	§	
Defendant.	§	

**MEMORANDUM OPINION AND ORDER GRANTING JOINT MOTION FOR
PERMISSION TO PROCEED WITH APPLICATION FOR APPROVAL OF TRANSFER
OF STRUCTURED SETTLEMENT PAYMENT RIGHTS AND ORDER CLOSING
CASE**

Pending before the Court is DRB Capital, LLC and Tyler Wade’s Joint Motion for Permission to Proceed with Application for Approval of Transfer of Structured Settlement Payment Rights [Dkt. 12]. After considering the Joint Motion and arguments presented at hearing on March 14, 2023, the Court finds that DRB Capital, LLC and Tyler Wade’s Joint Motion is **GRANTED**.

BACKGROUND AND ANALYSIS

On November 1, 1996, the District Court for the Sherman Division of the Eastern District of Texas entered an Agreed Final Judgment in the case *Deborah Wade, Individually and as Next Friend of Tyler Ross Wade, a Minor v. Kindercare Learning Centers, Inc. and Timothy Owen Waggoner*; Case No. 4:95-CV-162. In this Agreed Final Judgment, the Court granted Tyler Ross Wade (“Wade”) the following “Periodic Payments” as personal injury damages for a tort claim:

commencing 9-1-2008, \$750.00 per month for 5 years guaranteed; commencing 9-1-2008, \$7,500.00 per year for 5 years guaranteed; commencing 12-1-2008, \$7,500.00 per year for 5 years guaranteed; commencing 9-1-2013, \$1,667.00 per month for Tyler Ross Wade’s lifetime with the first 30 years guaranteed

[Dkt. 17-1 at 2]. The Agreed Final Judgment additionally includes an “anti-assignability clause”

which states that “It is further ORDERED that Plaintiffs acknowledge that the Periodic Payments cannot be accelerated, deferred, increased, or decreased by the Plaintiffs or any payee; nor shall the Plaintiffs or any payee have the power to sell, mortgage, encumber or anticipate the Periodic Payments or any part thereof by assignment or otherwise” [Dkt. 17-1 at 3]. The judgment defines Plaintiffs as “DEBORAH WADE, Individually and as Next Friend of Tyler Ross Wade, a minor” [Dkt. 17-1 at 1].

Wade, who is no longer a minor and has full capacity to contract, willingly and voluntarily entered into an Absolute Sale and Security Agreement with DRB Capital, LLC (“DRB”), which is a limited liability company under the laws of the state of Delaware with its principal place of business in the state of Florida. In this Absolute Sale and Security Agreement, Wade agreed to sell to DRB a portion of his structured settlement payment rights that were created by the previously discussed Agreed Final Judgment in Case No. 4:95-CV-162. Specifically, Wade is selling one-hundred and eighty (180) life contingent monthly payments in the amount of one-thousand six-hundred and sixty-seven dollars (\$1,667.00) commencing on or about September 1, 2043 and ending about August 1, 2058, to DRB in exchange for a lump sum cash payment.

Because the Agreed Final Judgment in Case No. 4:95-CV-162 includes an “anti-assignability clause,” the Issuer and Obligor of Wade’s annuity, New York Life Insurance Company and New York Life Insurance and Annuity Corporation, have asked DRB to obtain consent from the Sherman Division of the Eastern District Courts of Texas in order to proceed with the proposed transfer in Texas state court. Because of this request, the current action was filed by DRB on October 11, 2023, seeking consent to the transfer of payments [Dkt. 1].

On February 17, 2023, the Court scheduled this matter for a prove-up hearing regarding the requested transfer of structured annuity benefits [Dkt. 22]. Therein, the Court directed DRB

to serve a copy of the Order setting hearing on all parties to the prior litigation and/or any other known interested parties [Dkt. 22 at 1]. On March 14, 2023, this Court convened and, after confirming notice had been provided in compliance with the February 17 Order, conducted a hearing on DRB and Wade's Joint Motion [*see generally* Dkt. 23]. Both Wade and counsel for DRB were in attendance. DRB averred that it had provided notice of the current action and the hearing to all parties to the prior suit and other known interested parties, including but not limited to, New York Life Insurance Company, New York Life Insurance and Annuity Corporation, and Wade. None of the parties to the prior suit or any other known interested party has raised any objection to the assignment, nor did any person or party appear at the March 14, 2023, hearing to state an objection to the Joint Motion.

Based upon the Joint Motion, hearing on March 14, 2023, and the lack of objection from any interested party, the Court consents to the proposed transfer between DRB and Wade. Having heard the arguments presented on the record, the Court finds that Wade is fully advised of the current value of the assigned payments and the consequences of the proposed transaction between the parties, and, now that he has reached the age of majority, Wade should be free to assign them as proposed. Additionally, the Court consents to DRB and Wade seeking approval of the proposed transfer pursuant to the Texas Structured Settlement Protection Act contained in Chapter 141 of the Texas Civil Practice and Remedies Code.

CONCLUSION

For the foregoing reasons, the Court finds that DRB Capital LLC and Tyler Wade's Joint Motion for Permission to Proceed with Application for Approval of Transfer of Structured Settlement Payment Rights [Dkt. 12] is hereby **GRANTED**. This matter shall be closed on the Court's docket, and all costs shall be borne as agreed by the parties.

SIGNED this 22nd day of March, 2023.

A handwritten signature in black ink, appearing to read 'C.A. Nowak', written over a horizontal line.

Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE